IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.169 OF 2006

IN

SUMMARY SUIT NO.3422 OF 2005

Union Bank of India. ... Plaintiff

vs.

Mr.Milind Natha Gadage & another. ... Defendants.

Ms.Shakuntala Joshi, for Plaintiff.

Ms.S.Srikrishna i/b. A.G.Purohit, for Defendant no.1 & 2.

CORAM: D.K.DESHMUKH,J.

DATED: 26th September,2006

P.C.:-

1. According to the plaintiff-bank this summary suit is based on a promissory note which is at Exhibit A to the plaint. The promissory note states that the defendant no. 1 would on demand pay back an amount of Rs.2,35,000/- with interest at the rate of 8.5 % to the Bank. Whereas, according to the plaintiff the real nature of the transaction is that though loan of Rs.2,35,000/-

was sanctioned by the bank, the defendant no.1 did not take that loan instead he took the loan in the lesser amount. Therefore, the plaintiff cannot rely on the promissory note which does not depict the real nature of transaction between the plaintiff and the defendants. The defendants therefore, obviously have substantial defence to offer because the suit of the plaintiff cannot be said to be based on the promissory note which does not reflect real nature of the transaction. The summons for judgment is, therefore, disposed of. The defendants are granted unconditional leave to defend the suit. Written statement to be filed within a period of four weeks from today.